

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DEUTSCHE BANK NATIONAL TRUST
CO.,

No. C 13-00738 RS

Plaintiff,

v.

GERARD DUENAS and Does 1 through
100 inclusive,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION GRANTING
MOTION TO REMAND AND
DENYING REQUEST FOR
ATTORNEYS FEES**

The United States Magistrate Judge to whom this action was initially assigned issued a report and recommendation that plaintiff's motion to remand be granted and its request for attorneys fees and costs be denied. *See* Dkt. 14. Specifically, in the Report dated April 2, 2013, the Judge found: (1) defendant's removal was untimely, (2) no diversity jurisdiction exists because the amount in controversy is less than \$10,000, (3) there is no federal question jurisdiction as the complaint's only claim for relief is for unlawful detainer under state law, and (4) although defendant's amended notice of removal argues for federal question jurisdiction on the basis of cross-claims alleging violations of the Protecting Tenants of Foreclosure Act (PTFA) or the Fourteenth Amendment to the United States Constitution, no such cross-claims have been filed and, in any event, the PTFA "does not create a private right of action or basis for federal subject matter jurisdiction." *See id.* at 4 (quoting *Deutsche Bank Nat. Trust Co. v. Eaddy*, 2012 WL 4173987, at *1 (N.D. Cal. Sept. 18,

2012)). As to plaintiff's request for attorneys fees and costs, the Judge correctly recommended denial of the motion in view of defendant's pro se status, but cautioned him that sanctions could be imposed in the event he improperly removes this action to federal court again in the future.

No party has filed objections to the Report and Recommendation. Only after it was issued did defendant file an untimely response to plaintiff's motion to remand. Having considered that response, there is no support for reaching a result different than that recommended by the Magistrate Judge. The report and recommendation is therefore adopted and incorporated in full, and the case is remanded. The Clerk is directed to close the case file.

IT IS SO ORDERED.

Dated: 4/17/13


RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE